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6 NATIONAL TOBACCO COMPANY, LP
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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12 RAYMOND RILEY p.k.a. Boots Riley,
13 SOLOMON DAVID and MARLON IRVING
p.k.a. Lifesavas,

14 Plaintiffs,

15 v.

16 NATIONAL TOBACCO COMPANY LP,

17 Defendant.
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Case No. C-08-01931 JSW

**NOTICE OF PENDENCY OF OTHER
ACTION OR PROCEEDING IN NEW
YORK BY DEFENDANT NATIONAL
TOBACCO COMPANY LP**

Before: The Honorable Jeffrey S. White

[FILED VIA E-FILING]

1 Pursuant to Local Rule 3-13, Defendant National Tobacco Company (“NTC”) hereby notifies
2 the Court of the following case, National Tobacco Company, LP v. Timothy Parker and Xavier
3 Mosley p.k.a. Blackalicious, Raymond Riley p.k.a. Boots Riley, Solomon David and Marlon Irving,
4 p.k.a. Lifesavas, United States District Court for the Southern District of New York, Case
5 No. 08-CV-03383-SAS, filed on April 4, 2008.

6 The matter pending before the Southern District of New York involves identical parties to
7 this action, and involves nearly identical issues. Specifically, NTC filed suit against Raymond Riley
8 (p.k.a Boots Riley), Solomon David and Marlon Irving (p.k.a Lifesavas), among others, in the
9 Southern District of New York. NTC’s complaint sought relief on trademark claims based on
10 15 U.S.C. § 1125, defamation, tortious interference with contract, and trade libel claims.

11 In their suit in the Northern District of California, Riley, David and Irving (“Riley Plaintiffs”)
12 assert federal trademark claims based on 15 U.S.C. § 1125, misappropriation claims under Cal. Civ.
13 Proc. § 3344, and unfair competition claims based on Cal. Bus. & Prof. Code § 17200.

14 In both the New York and California actions, the dispute between NTC and the Riley
15 plaintiffs arose out of NTC’s marketing campaign for their Zig-Zag Live Tour 2007, in which the
16 Riley plaintiffs all performed. The parties’ claims in both jurisdictions all arise out of the Zig-Zag
17 Live Tour. Both the New York and California actions arise from substantially identical transactions,
18 happenings, and events, involve substantially the same parties, and will involve determination of
19 some of the same or similar questions of law and fact.

20 It appears likely that there will be an unduly burdensome duplication of labor and expense, or
21 conflicting results if the cases are conducted before different Judges. Coordination of these cases
22 will allow the elimination of duplicative discovery proceedings, prevent inconsistent pre-trial rulings
23 and conserve the resources of the parties, their counsel and the judiciary.

1 Consequently, Defendant has filed concurrently herewith its Motion to Dismiss or Stay in
2 Favor of the First-Filed Action in New York; or in the Alternative to Dismiss or Transfer for
3 Improper Venue under Fed. R. Civ. Proc. 12(b)(3) and 28 U.S.C. § 1406(a); or in the Alternative, to
4 Transfer for the Convenience of the Parties and Witnesses under 28 U.S.C. § 1404(a).

5 Dated: May 5, 2008

BAKER & McKENZIE LLP
BRUCE H. JACKSON

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8 By: /s/
9 Bruce H. Jackson
10 Attorneys for Defendant
11 NATIONAL TOBACCO COMPANY, LP
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